

**STATE WATER RESOURCES CONTROL BOARD (SWRCB )  
ORDER NO. -2003 - XX - DWQ  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
GENERAL PERMIT NO. CAS00000X**

**WASTE DISCHARGE REQUIREMENTS (WDRS) FOR DISCHARGES  
OF STORM WATER RUNOFF ASSOCIATED WITH SMALL LINEAR  
UNDERGROUND/OVERHEAD CONSTRUCTION PROJECTS (GENERAL PERMIT)**

The State Water Resources Control Board (hereinafter SWRCB) finds that:

1. Federal regulations for controlling pollutants in storm water runoff discharges were promulgated by the U.S. Environmental Protection Agency (USEPA) on November 16, 1990 (Title 40 Code of Federal Regulations (40 CFR) Parts 122, 123, and 124). The regulations require discharges of storm water to surface waters associated with construction activity including clearing, grading, and excavation activities (except operations that result in disturbance of less than five acres of total land area and which are not part of a larger common plan of development or sale) to obtain an NPDES permit and to implement Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce the discharge of pollutants associated with construction activities in storm water runoff.
2. On December 8, 1999, federal regulations promulgated by USEPA (40 CFR Parts 9, 122, 123, and 124) expanded the NPDES storm water program to include storm water discharges from municipal separate storm sewer systems (MS4s) and construction sites that were smaller than those previously included in the program. Federal regulation 40 CFR Section 122.26(b)(15) defines small construction activity as including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre or less than five acres or is part of a larger common plan of development or sale. These regulations also specify that small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. Federal regulations required permit applications for small construction activities to be submitted by March 10, 2003.
3. This General Permit does not apply to storm water discharges from Small Linear Underground/Overhead Projects (Small LUPs) for (a) those areas on Tribal Lands, (b) the Lake Tahoe Hydrologic Unit, (c) Small LUPs which disturb less than one acre unless directed by a Regional Water Quality Control Board (RWQCB) to obtain coverage under a construction storm water permit, (d) projects covered by another construction storm water general permit or an individual NPDES Permit for storm water discharges associated with construction activity, (e) linear construction projects that exceed five acres of soil disturbance, (f) non-linear construction projects, and (g) storm water discharges which are determined ineligible for coverage under this General Permit by an RWQCB.

4. Storm water discharges in the Lake Tahoe Hydrologic Unit are regulated by a separate permit(s) adopted by the California Regional Water Quality Control Board, Lahontan Region (LRWQCB). Permit applications for storm water discharges that will be conducted in the Lake Tahoe Hydrologic Unit must be submitted directly to the LRWQCB. USEPA regulates storm water discharges on Tribal Lands.
5. Regulations, promulgated by USEPA (40 CFR Part 122, [FRL-7464-2], RIN 2040-AC82) on March 5, 2003 exempt oil and gas exploration, production, processing, and treatment operations or transmission facilities (i.e., gathering lines, flow lines, feeder lines, and transmission lines) for projects encompassing from one to five acres, are exempt from this General Permit until March 10, 2005 unless the above rule is extended by USEPA. The construction of water lines, electrical utility lines, etc., as part of the oil and gas exploration, production, processing, treatment, and transmission projects are also included in this exemption. This exemption does not include distribution lines that deliver natural gas to homes businesses, etc., and operate at relatively low pressures, or those pipelines that transport refined petroleum product and chemicals from refineries and chemical plants.
6. This General Permit regulates the discharge of storm water associated with construction activities from Small LUPs that result in land disturbances greater than one acre but less than five acres. Construction activities associated with Small LUPs are not like traditional construction projects, such as residential and commercial development. Small LUPs have a lower potential to impact receiving waters because these projects are typically short in duration and are constructed within or around hard paved surfaces resulting in minimal disturbed land area being exposed at the close of the construction day.
7. Small LUPs have been categorized into two tiers (Tier I and Tier II) of complexity based on a project's threat to water quality.
8. Tier I Small LUPs typically do not have a high potential to impact storm water quality because (a) these construction activities are not typically conducted during a rain event, (b) these projects are normally constructed over a short period of time,<sup>1</sup> minimizing the duration that pollutants could potentially be exposed to rainfall; and (c) disturbed soils, such as those from trench excavation, will be required to be hauled away, backfilled into the trench, and/or covered (e.g., metal plates, pavement, plastic covers over spoil piles) at the end of the construction day.
9. Tier II Small LUPs have a higher potential to impact storm water quality because (a) they typically occur outside the more urban/developed areas; (b) they have larger areas of soil disturbance that are not closed or restored at the end of the day; (c) they may have on-site stockpiles of soil, spoil and other materials stockpiled on site; (d) they cross or occur in close proximity to a wide variety of sensitive resources which may include, but

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<sup>1</sup> Short period of time refers to a project duration of weeks to months, but typically less than one year in duration.

are not limited to, steep topography and/or waterbodies, and (e) they have larger areas of disturbed soils that are may be exposed for a longer time interval before final stabilization, cleanup and/or reclamation occurs.

10. Dischargers or their duly authorized representatives of Tier I and Tier II Small LUPs using this General Permit must seek coverage under this General Permit prior to the start of construction by filing the appropriate notices with the SWRCB and the appropriate RWQCB(s) office(s) and developing a Storm Water Pollution Prevention Plan (SWPPP) for each project including monitoring requirements in accordance with the requirements of this General Permit and Sections A and B.
11. This General Permit does not preempt or supersede the authority of local storm water management agencies to prohibit, restrict, or control storm water discharges to separate storm sewer systems or other watercourses within their jurisdiction as allowed by State and federal law.
12. If an individual NPDES Permit is issued by an RWQCB to a discharger or duly authorized representative who is otherwise subject to this General Permit, the applicability of this General Permit to such discharges is automatically terminated on the effective date of the individual permit. If an alternative General Permit is subsequently adopted, which covers storm water discharges regulated by this General Permit and the discharger is directed to seek coverage under the alternative permit by the RWQCB, the discharger must terminate coverage under this General Permit and seek coverage under the alternative permit.
13. The SWRCB adopted the California Ocean Plan, and the RWQCBs have adopted and the SWRCB has approved Water Quality Control Plans (Basin Plans). Dischargers or duly authorized representatives regulated by this General Permit must comply with the water quality standards in these Basin Plans and subsequent amendments thereto.
14. Storm water discharges associated with construction activity from Small LUPs may potentially contribute sediment or other pollutants into water bodies listed by the SWRCB as impaired (current listing in Attachment 7) in accordance with the federal Clean Water Act (CWA), Section 303(d). The Monitoring Program and Reporting Requirements include sampling and analysis requirements for all direct discharges of sediment/siltation or turbidity to waters listed as impaired due to sediment. The Monitoring and Reporting Requirements also include sampling and analysis requirements for pollutants that are not visually detectable in runoff that may cause or contribute to an exceedance of water quality objectives where a discharger or its ~~duly~~-authorized representative fails to implement an adequate SWPPP.
15. Federal regulation 40 CFR Section 122.44(k)(2) allows the SWRCB to require implementation of Best Management Practices (BMPs) to control or abate the discharges pollutants for storm water authorized under Section 402(p) of the federal CWA. Federal regulation 40 CFR Section 122.44(k)(4) authorizes the implementation of BMPs where

BMPs are necessary to carry out the purposes and intent of the CWA. Effluent limitations contained in this General Permit are narrative and require a discharger or its ~~duly~~ authorized representative to implement appropriate BMPs to reduce the discharge of pollutants in storm water runoff to comply with BAT/BCT discharge standards.

16. Construction activities associated with Small LUPs may require the use of non-storm water. Non-storm waters that are not to be sources of significant pollutants and do not threaten water quality are conditionally authorized by this General Permit through Special Provision D.6. Discharge Prohibition A.2 of this General Permit prohibits the discharges of non-storm water except where such discharges are either authorized by this General Permit or authorized by a separate NPDES permit or both.
17. Following adoption of this General Permit, the RWQCBs shall enforce the provisions herein including the monitoring and reporting requirements.
18. Following public notice in accordance with State and federal laws and regulations, the SWRCB, in a public hearing on May 21, 2003, heard and considered all comments. The SWRCB has prepared written responses to all significant comments.
19. This General Permit does not authorize discharges of fill or dredged material regulated by the U.S. Army Corps of Engineers under CWA section 404 and does not constitute a waiver of water quality certification under CWA section 401.
20. The action to adopt a general NPDES permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (CEQA) (Public Resources Code Section 21100, et seq.), in accordance with Section 13389 of the California Water Code.
21. The SWRCB has considered anti-degradation pursuant to 40 CFR 131.12 and SWRCB Resolution 68-16, and discharges in compliance with this General Permit are consistent with those provisions.

IT IS HEREBY ORDERED that all dischargers<sup>2</sup> or duly authorized representatives<sup>3</sup> who file an Notice of Intent (NOI) indicating their intention to be regulated under the provisions of this General Permit shall comply with the following:

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<sup>2</sup> The term "discharger" means the utility company, municipality, or other public or private company or agency that owns or operates the Small LUP.

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~~A duly authorized representative is either an individual or a position having responsibility for the overall operation of the construction activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility; or an individual or position having overall responsibility for environmental matters for the company, municipality, or other public agency that owns or operates the Small LUP; or a contractor employed by the owner or operator of the Small LUP. The appointment a duly authorized representative by a discharger does not relieve the discharger of its responsibility for compliance with this General Permit.~~

**A. DISCHARGE PROHIBITIONS:**

1. Authorization pursuant to this General Permit does not constitute an exemption to applicable discharge prohibitions prescribed in Basin Plans, as implemented by the nine RWQCBs.
2. Discharges of non-storm water which are not otherwise authorized by an NPDES permit to a municipal separate storm sewer system (MS4) or waters of the nation are prohibited, except as allowed in Special Provisions for Construction Activity, Section D.6.
3. Storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance.
4. Storm water discharges regulated by this General Permit shall not contain a hazardous substance equal to or in excess of a reportable quantity listed in 40 CFR Part 117 and/or 40 CFR Part 302.
5. Trench spoils or any other soils disturbed during construction activities that are contaminated soil<sup>4</sup> shall not be discharged with storm water or non-storm water discharges- into any storm drain or waterbody unless subject to an NPDES permit.
6. Discharging any pollutant-laden water which will cause or contribute to an exceedance of the applicable RWQCB's Basin Plan from a dewatering site or sediment basin into any receiving water or storm drain is prohibited.

**B. EFFLUENT LIMITATIONS**

1. Reduce the discharge of pollutants in storm water discharges and authorized non-storm water discharges from Small LUPs through the implementation of BMPs to BAT and BCT discharge standards.

~~at~~ This General Permit is performance based to the extent that it prohibits the discharge of storm water that causes or threatens to cause pollution, contamination, or nuisance. This General Permit also allows the discharger or ~~duly~~ authorized representative to determine the most economical, effective, and possibly innovative BMPs to reduce the discharge of

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<sup>4</sup> Contaminated soil is soil that contains pollutants in concentrations that exceed the appropriate thresholds of various regulatory agencies for those substances. Preliminary testing of potentially contaminated soils will be based on odor, soil discoloration, or prior history of the site's chemical use and storage and other similar factors. When soil contamination is found or suspected, and a responsible party is not identified, or the responsible party fails to promptly take the appropriate action, the discharger or ~~duly~~ authorized representative shall have those soils sampled and tested to ensure proper handling and public safety measures are implemented. The discharger or its ~~duly~~ authorize representative will notify the appropriate local, State, or federal agency(ies) ~~and RWQCB~~ when contaminated soil is found at a construction site- and will notify the RWQCB through the submittal of the LCTN or NOT at the completion of the project.

pollutants in storm water discharges and authorized non-storm water discharges from Small LUPs to meet the BAT/BCT discharge standard.

2. The discharger or ~~duly~~-authorized representative shall implement BMPs to prevent a net increase of sediment load in storm water discharge relative to preconstruction levels.

**C. RECEIVING WATER LIMITATIONS:**

1. Storm water discharges and authorized non-storm water discharges to any surface or groundwater shall not adversely impact human health or the environment.
2. The SWPPPs developed for the Small LUPs covered by this General Permit shall be designed and implemented such that storm water discharges and authorized non-storm water discharges shall not cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan and/or the applicable RWQCB's Basin Plan.
3. Should it be determined by the discharger or ~~duly~~-authorized representative, SWRCB, or RWQCB(s) that storm water discharges and/or authorized non-storm water discharges are causing or contributing to an exceedance of an applicable water quality standard, the ~~discharger or duly authorized representative~~ following shall apply:
  - a. The discharger or authorized representative shall ~~if~~ implement corrective measures immediately following discovery that water quality standards were exceeded, followed by notification to the appropriate RWQCB(s) office by telephone as soon as possible but no later than 48 hours after the discharge has been discovered. This notification shall be followed by a report submitted by the discharger or duly authorized representative within 14 calendar days to the appropriate RWQCB office, unless otherwise directed by the appropriate RWQCB office, describing (1) the nature and cause of the water quality standard exceedance; (2) the BMPs currently being implemented; (3) any additional BMPs which will be implemented to prevent or reduce pollutants that are causing or contributing to the exceedance of water quality standards; and (4) any maintenance or repair of BMPs. This report shall include an implementation schedule for corrective actions and shall describe the actions taken to reduce the pollutants causing or contributing to the exceedance.
  - b. The discharger or ~~duly~~-authorized representative shall revise its SWPPP and monitoring program immediately after submitting the report to the appropriate RWQCB(s) office to incorporate the additional BMPs that have been implemented and will be implemented, the implementation schedule, and any additional monitoring needed.
  - c. Nothing in this section shall prevent the appropriate RWQCB(s) from enforcing any provisions of this General Permit while the discharger or ~~duly~~-authorized representative prepares and implements the above report.

**D. SPECIAL PROVISIONS FOR SMALL LINEAR UNDERGROUND/OVERHEAD CONSTRUCTION PROJECTS:**

1. This General Permit regulates storm water discharges associated with Small LUPs. Small LUPs include, but are not limited to, any conveyance, pipe, or pipeline for the transportation of any gaseous, liquid (including water and wastewater for domestic municipal services), liquescent, or slurry substance; any cable line or wire for the transmission of electrical energy; any cable line or wire for communications (e.g., telephone, telegraph, radio, or television messages); and associated ancillary facilities. Construction activities associated with Small LUPs include, but are not limited to, (a) those activities necessary for the installation of underground and overhead linear facilities (e.g., conduits, substructures, pipelines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment, and associated ancillary facilities); and include, but are not limited to, (b) underground utility mark-out, potholing, concrete and asphalt cutting and removal, trenching, excavation, boring and drilling, access road and pole/tower pad and cable/wire pull and station/substation construction, substructure installation, construction of tower footings and/or foundations, pole and tower installations, pipeline installations, welding, concrete and/ or pavement repair or replacement, and stockpile/borrow locations.
2. This General Permit establishes two tiers (Tier I and Tier II) of complexity for Small LUPs based on a project's threat to water quality:
  - a. Tier I Small LUPs are:
    - i. Those construction projects where 70 percent or more of the construction activity occurs continuously on a paved surface and where areas disturbed during construction will be returned to preconstruction conditions or equivalent protection established at the end of the construction activities for the day; or
    - ii. ~~Those construction projects that occur on unpaved improved roads or where greater than 30 percent of construction activities occur within the non-paved shoulders or land immediately adjacent to paved surfaces and where:~~ Where greater than 30 percent of construction activities occur within the non-paved shoulders or land immediately adjacent to paved surfaces, and on unpaved improved roads, including their shoulders or land immediately adjacent to them where:
      - ~~1)(1)~~ Areas disturbed during construction will be returned to preconstruction conditions or equivalent protection established at the end of the construction activities for the day to minimize the potential for erosion and sediment deposition, and
      - ~~2)(2)~~ Areas where established vegetation was disturbed during construction will be stabilized and revegetated by the end of project. When required, adequate temporary stabilization BMPs will be installed and maintained until



vegetation is established to meet minimum cover requirements established in this General Permit for final stabilization.

- b. Tier II projects are all other Small LUPs that do not meet the definition of Tier I projects.
3. The discharger or duly authorized representative shall utilize the processes and methods provided in Attachment 1, Notice of Intent – General Instructions for determining the total land disturbance area of a proposed linear underground/overhead construction project to establish if the project is a Small LUP that may seek coverage under this Permit.
4. When using this General Permit, the discharger or duly authorized representative of Small LUPs must obtain coverage under this General Permit prior to commencement of construction activities. ~~except where Small LUP construction activities are covered by the NOI and SWPPP of a new development or redevelopment project that is owned or operated by private parties or municipalities and is covered by this General Permit or another NPDES permit.~~ Notice requirements are different depending on the complexity of a Small LUP:
  - a. Prior to the start of construction of any Tier I Small LUPs, the discharger or duly authorized representative shall file one NOI and fee to establish coverage under this General Permit for each RWQCB office jurisdictional area where Tier I Small LUPs will be constructed. Prior to start of construction for each individual Tier I Small LUP, the discharger or its duly authorized representative shall submit a Linear Construction Activity Notification (LCAN) to the appropriate RWQCB office pursuant to this General Permit as required by Attachment 2: Notice of Intent--General Instructions. One LCAN may include multiple Tier I Small LUPs provided the projects are listed by county within each RWQCB office jurisdictional area.
  - b. Prior to construction activities for Tier II Small LUPs, the discharger or duly authorized representative shall file an NOI and fee for each NOI submitted pursuant to this General Permit as required by Attachment 1: Notice of Intent--General Instructions.
5. The discharger or ~~duly~~ authorized representative of all Small LUPs shall ensure that the preparation, implementation, and oversight of the SWPPP is sufficient for effective pollution prevention in accordance with Section A: Storm Water Pollution Prevention Plan. The discharger or ~~duly~~ authorized representative shall implement controls to reduce pollutants in storm water discharges from their construction sites to the BAT/BCT performance standard.
6. This General Permit prohibits the discharge of non-storm water not authorized by this General Permit or authorized by a separate NPDES permit. Such non-storm water



discharges authorized by this General Permit<sup>5</sup> include, but are not limited to irrigation of vegetative erosion control measures, pipe flushing and testing, street cleaning,<sup>6</sup> and dewatering.<sup>7</sup> Such discharges are allowed by this General Permit provided they are not relied upon to clean up failed or inadequate construction or post-construction BMPs designed to keep materials on site. These authorized non-storm water discharges:

- a. Shall be infeasible to eliminate,
- b. Shall comply with BMPs as described in the SWPPP, and
- c. Shall not cause or contribute to a violation of water quality standards.

Additionally, these discharges may be required to be permitted by the appropriate RWQCB(s) office (e.g., some RWQCBs have adopted General Permits for dewatering discharges). Wherever feasible, alternatives, which do not result in discharge of non-storm water, shall be implemented in accordance with Section 9 of the SWPPP requirements (Section A).

7. For Small LUPs covered under this General Permit, the discharger or ~~duly~~ authorized representative shall develop and implement a monitoring program and reporting plan in accordance with Section B: Monitoring Program and Reporting Requirements. The discharger or ~~duly~~ authorized representative shall have appropriate equipment and materials, and workers must be available for rapid response to BMP failures and emergencies at construction sites. All corrective maintenance to BMPs shall be performed as soon as possible, depending upon worker safety.

- ~~9. The discharger or its duly authorized representative shall notify the appropriate environmental agency(ies) and the appropriate RWQCB(s) office in the event that is disturbed or excavated soil at a Small LUP is determined to be contaminated.~~
8. When soil contamination is found or suspected and a responsible party is not identified, or the responsible party fails to promptly take the appropriate action, the discharger or authorized representative shall have those soils sampled and tested to ensure proper handling and public safety measures are implemented. The discharger or its authorize representative will notify the appropriate local, State, or federal agency(ies) when contaminated soil is found at a construction site, and will notify the RWQCB through the submittal of the LCTN or NOT at the completion of the project.

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<sup>5</sup> Dischargers or ~~duly~~ authorized representatives must identify all authorized non-storm water discharges in the Small LUP's SWPPP and identify BMPs that will be implemented to either eliminate or reduce pollutants in non-storm water discharges. RWQCBs may direct the discharger to discontinue discharging such non-storm water discharges if determined that such discharges discharge significant pollutants or threaten water quality.

~~<sup>6</sup> Non-storm water discharges that may occur from street cleaning shall not discharge any visible or non-visible pollutants to a storm water conveyance system or other receiving water.~~

<sup>7</sup> Dewatering activities may ~~may~~ be prohibited or need coverage under a separate permit issued by the RWQCBs. Dischargers or ~~duly~~ authorized representatives shall check with the appropriate RWQCBs for any required permit or basin plan conditions prior to initial dewatering activities to land, storm drains, or waterbodies.~~permit conditions prior to commencing any dewatering activities associated with Small LUPs.~~

~~10.9.~~ All dischargers or ~~duly~~ authorized representatives shall comply with the lawful requirements of municipalities, counties, drainage districts, and other local agencies regarding discharges of storm water to separate storm sewer systems or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs developed to comply with NPDES permits issued by the RWQCBs to local agencies.

~~11.10.~~ All dischargers or ~~duly~~ authorized representatives shall comply with the standard provisions and reporting requirements contained in Section F: Standard Provisions for Small LUPs.

~~12.11.~~ Termination of Coverage

The discharger or duly authorized representative may terminate coverage of a Small LUP covered under this General Permit when construction activities are completed by submitting a written request to terminate coverage to the appropriate RWQCB(s) office. Termination requirements are different depending on the complexity of the Small LUP. A Small LUP is considered complete when: (a) there is no potential for construction related storm water pollution; (b) all elements of the SWPPP have been completed; (c) construction materials and waste have been disposed of properly; (d) the site is in compliance with all local storm water management requirements; and (e) the discharger or duly authorized representative submitted a LCTN for Tier I projects and has requested and received approval for termination from the appropriate RWQCB(s) office for Tier II projects.

a. Tier I Small LUPs Termination of Coverage Requirements

- i. Dischargers or duly authorized representatives shall file a Linear Construction Termination Notification (LCTN) to request termination for a Tier I Small LUP to the appropriate RWQCB(s) office in accordance with requirements of Attachment 3, LCTN - General Instructions. By filing the LCTN, a discharger or duly authorized representative is certifying construction activities are complete, that the site was in full compliance with requirements of this General Permit during active construction, and that it is now compliant with soil stabilization requirements where appropriate. A discharger or duly authorized representative may submit an LCTN for multiple projects completed over a specified period of time or may submit an LCTN for an individual Small LUP.
- ii. The discharger or duly authorized representative must submit a Notice of Termination (NOT) request to the appropriate RWQCB(s) office to terminate coverage under this General Permit to construct Tier I Small LUPs within a specific RWQCB jurisdictional area. Upon approval by the appropriate RWQCB(s), permit coverage will be terminated and the discharger or duly authorized representative will no longer be authorized to construct Tier I Small LUPs within the RWQCB jurisdictional area until such time the company has

obtain coverage under this General Permit or another NPDES storm water permit for these activities. The discharger or duly authorized representative shall submit the NOT in accordance with Attachment 4, NOT – General Instructions.

b. Tier II Small LUPs Termination of Coverage Requirements

A discharger or duly authorized representative shall file a NOT to the appropriate RWQCB(s) office to request termination for a Tier II Small LUP in accordance with requirements of Attachment 4, NOT - General Instructions. By submitting an NOT, the discharger or duly authorized representative is certifying that construction activities for a Tier II Small LUP are complete and that the project was in full compliance with requirements of this General Permit during active construction and that it is now compliant with soil stabilization requirements where appropriate. Upon approval by the appropriate RWQCB(s) office, permit coverage will be terminated.

c. Change of Ownership Termination Requirements

The discharger or duly authorized representative may terminate coverage for a portion of the project under this General Permit when ownership of a portion of this project has been transferred or when a phase within a multi-phase project has been completed. When ownership has transferred, the discharger or duly authorized representative must submit to its RWQCB a Change of Information Form (COI), Attachment 1, with revised site map and the name, address, and telephone number of the new owner(s). Upon transfer of title, the discharger or duly authorized representative should notify the new owner(s) of the need to obtain coverage under this General Permit. The new owner must comply with provisions of Sections A. 2(~~d~~) and B. 2(~~b~~) of this General Permit. To terminate coverage for a portion of the project when a phase has been completed, the discharger or duly authorized representative or must submit to its RWQCB a COI with a revised map that identifies the newly delineated site.

~~e.d.~~ A discharger or duly authorized representative may terminate coverage under this General Permit when all Small LUPs currently authorized pursuant to this General Permit have been permitted under an individual or another construction storm water general permit.

~~13.12.~~ This General Permit expires five years from the date of adoption.

E. REGIONAL WATER QUALITY CONTROL BOARD (RWQCB) AUTHORITIES:

1. RWQCBs shall:

- a. Implement the provisions of this General Permit. Implementation of this General Permit may include, but is not limited to receiving LCANs and LCTNs, requesting the submittal of SWPPPS, reviewing SWPPPs, reviewing monitoring reports,

conducting compliance inspections, receiving and approving NOTs, and taking enforcement actions.

- b. Issue individual NPDES permits, as they deem appropriate to individual dischargers, categories of dischargers, or dischargers in a geographic area. Upon issuance of such permits by an RWQCB, this General Permit shall no longer regulate the affected dischargers ~~or duly authorized representatives~~.
2. RWQCBs may require, on a case-by-case basis, the inclusion of an analysis of potential downstream impacts on receiving waterways due to the permitted construction.
3. RWQCBs may provide information to dischargers or ~~duly~~ authorized representatives on the development and implementation of SWPPPs and monitoring programs and may require revisions to SWPPPs and monitoring programs.
4. RWQCBs may require dischargers ~~or duly authorized representatives~~ to retain records for more than three years.
5. RWQCBs may require additional monitoring and reporting program requirements including sampling and analysis of discharges to water bodies listed in Attachment 7 to this General Permit. Additional requirements imposed by the RWQCB should be consistent with the overall monitoring effort in the receiving waters.
6. RWQCBs may direct a discharger to seek coverage under Order 99-08 or issue an individual NPDES permit for Small LUPs meeting the land disturbance threshold for coverage under this General Permit. RWQCBs may also direct a discharger to seek coverage under Order 99-08o or to issue an individual NPDES permit for those Small LUPs that fall outside of the land disturbance thresholds for this General Permit.
7. RWQCBs may document compliance of a project, or direct a discharger to document compliance, using any format that is preferred, which may include the taking of photo or video images.

**F. STANDARD PROVISIONS FOR SMALL LUPS:**

**1. Duty to Comply**

The discharger or ~~duly~~ authorized representative must comply with all of the conditions of this General Permit. Any permit noncompliance constitutes a violation of the CWA and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action and/or removal from General Permit coverage.

The discharger or ~~duly~~ authorized representative shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the

time provided in the regulations that establish these standards or prohibitions even if this General Permit has not yet been modified to incorporate the requirement.

## 2. General Permit Actions

This General Permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the discharger or duly authorized representative for a General Permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not annul any General Permit condition.

If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the CWA for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this General Permit, this General Permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the dischargers or duly authorized representatives so notified.

## 3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a discharger or ~~duly~~ authorized representative in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this General Permit.

## 4. Duty to Mitigate

The discharger or ~~duly~~ authorized representative shall take all responsible steps to minimize or prevent any discharge in violation of this General Permit, which has a reasonable likelihood of adversely affecting human health or the environment.

## 5. Proper Operation and Maintenance

The discharger or ~~duly~~ authorized representative shall at all times properly operate and maintain any facilities and systems of treatment and control (and related appurtenances) at all times, which are installed or used by the discharger or ~~duly~~ authorized representative to achieve compliance with the conditions of this General Permit and with the requirements of SWPPPs. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance may require the operation of backup or auxiliary facilities or similar systems installed by a discharger or ~~duly~~ authorized representative when necessary to achieve compliance with the conditions of this General Permit.

## 6. Property Rights

This General Permit does not convey any property rights of any sort or any exclusive privileges; it does not authorize any injury to private property or any invasion of personal rights; and it does not authorize any infringement of federal, State, or local laws or regulations.

7. Duty to Provide Information

The discharger or ~~duly~~-authorized representative shall furnish the RWQCB, SWRCB, or USEPA, within a reasonable time, any requested information to determine compliance with this General Permit. The discharger or duly authorized representative shall also furnish, upon request, copies of records required to be kept by this General Permit.

8. Inspection and Entry

The discharger or ~~duly~~-authorized representative shall allow a duly authorized representative of the RWQCB, SWRCB, USEPA, and/or, in the case of construction sites which discharge through a municipal separate storm sewer, an authorized representative of the municipal operator of the separate storm sewer system receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the discharger's or ~~duly~~-authorized representative's premises at reasonable times where a regulated construction activity is being conducted or where records must be kept under the conditions of this General Permit;
- b. Access and copy at reasonable times any records that must be kept under the conditions of this General Permit;
- c. Inspect at reasonable times the complete construction site, including any off-site staging areas or material storage areas, and the erosion/sediment controls;
- d. Sample or monitor at reasonable times for the purpose of ensuring General Permit compliance; and

~~e. Document compliance of the project using any format that is preferred, which includes the taking of photo or video images.~~

9. Signatory Requirements

- a. All NOIs, NOTs, SWPPPs, certifications, and reports prepared by the discharger in accordance with this Order submitted to the SWRCB shall be signed as follows:
  - i. For a corporation: by a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means: (a) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making

- functions for the corporation, or (b) the manager of the construction activity if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- ii. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
  - iii. For a municipality, State, federal, or other public agency: by either a principal executive officer, ranking elected official, or duly authorized representative. The principal executive officer of a federal agency includes the chief executive officer of the agency or the senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of USEPA).
- b. All SWPPPs, reports, certifications, or other information required by the General Permit and/or requested by the RWQCB, SWRCB, USEPA, or the local storm water management agency shall be signed by a person described above or by a duly authorized representative. A person is a duly authorized representative if:
- i. The authorization is made in writing by a person described above and retained as part of the SWPPP; or
  - ii. The authorization specifies either (1) an individual or a position having responsibility for the overall operation of the construction activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility; (2) an individual or position having overall responsibility for environmental matters for the company, municipality, or other public agency that owns or operates the Small LUP; or (3) a contractor employed by the owner or operator of the Small LUP. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).
- c. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the construction activity, a new authorization must be attached to the SWPPP prior to submittal of any reports, information, or certifications to be signed by the duly authorized representative.

## 10. Certification

Any person signing documents under Section F, Provision 9 above, shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is, true, accurate, and complete.



I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

#### 11. Anticipated Noncompliance

The discharger or ~~duly~~ authorized representative will give advance notice to the appropriate RWQCB office and local storm water management agency of any planned changes in the construction activity, which may result in noncompliance with General Permit requirements.

#### 12. Penalties for Falsification of Reports

Section 309(c)(4) of the CWA provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this General Permit, including reports of compliance or noncompliance shall upon conviction, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years or by both.

#### 13. Oil and Hazardous Substance Liability

Nothing in this General Permit shall be construed to preclude the institution of any legal action or relieve the discharger or duly authorized representative from any responsibilities, liabilities, or penalties to which the discharger or duly authorized representative is or may be subject to under Section 311 of the CWA.

14. Severability

The provisions of this General Permit are severable; and, if any provision of this General Permit or the application of any provision of this General Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this General Permit shall not be affected thereby.

15. Reopener Clause

This General Permit may be modified, revoked and reissued, or terminated for cause due to promulgation of amended regulations, receipt of USEPA guidance concerning regulated activities or a judicial decision, or in accordance with 40 CFR 122.62, 122.63, 122.64, and 124.5.

16. Penalties for Violations of Permit Conditions

- a. Section 309 of the CWA provides significant penalties for any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA or any permit condition or limitation implementing any such section in a permit issued under Section 402. Any person who violates any permit condition of this General Permit is subject to a civil penalty not to exceed \$27,500 per calendar day of such violation, as well as any other appropriate sanction provided by Section 309 of the CWA.
- b. The Porter-Cologne Water Quality Control Act also provides for civil and criminal penalties that in some cases are greater than those under the CWA.

17. Availability

A copy of this General Permit shall be maintained in conjunction with the original SWPPP. ~~at the construction site during working hours while construction activity is occurring and be available to operating personnel. Alternatively, the copy of the General Permit may be kept in a construction vehicle that will remain on site during the hours when construction is occurring and shall be made available upon request.~~

18. Transfers

This General Permit is not transferable. A new discharger or duly authorized representative of an ongoing Small LUP must submit an NOI in accordance with the requirements of this General Permit to be authorized to discharge under this General Permit. A discharger or duly authorized representative who transfers responsibility for Small LUPs covered by this General Permit shall inform the new discharger of the duty to file an NOI and shall provide the new discharger or duly authorized representative with a copy of this General Permit.

19. Continuation of Expired Permit

This General Permit continues in force and effect until a new General Permit is issued or the SWRCB rescinds this General Permit. Only those dischargers or duly authorized representatives authorized to discharge under the expiring General Permit are covered by the continued General Permit.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 18, 2003.

AYE:

NO:

ABSENT:

ABSTAIN:

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Maureen Marché  
Clerk to the Board